

REMARKS

The Office Action of February 25, 2008 presents a restriction requirement. Claims 1-39 have been restricted into three groups of claims as follows:

Group I, claims 1-10 and 15-37, directed to a pharmaceutical composition,

Group II, claims 11-14 directed to a process for making a pharmaceutical composition

Group III, claims 24-39, directed to a method for treating a viral infection.

As a threshold matter, the Examiner appears to have overlooked Applicants' letter of May 25, 2006 requesting entry of Article 19 or 34 amendments to the claims, and therefore has looked at the incorrect claims. In remedy, Applicants have now canceled all of claims 1-39, replacing them with claims 40-46 that were intended to be examined.

Applicants accordingly request vacatur of the present Office Action and examination of all of the now pending claims 40-46.

In order to be responsive to the restriction requirement, Applicants hereby elect the subject matter of Group II, a process for making a pharmaceutical composition. This election is made with traverse.

In the first instance, the Examiner has examined the incorrect claim set as explained above, rendering the present Office Action void.

In the second instance, the Examiner asserts that the claims 1-39 have no common "special technical feature" since there are different special technical features for composition claims and for method of treatment claims. This reasoning reflects complete misunderstanding of the meaning of a "special technical feature" as it is to be applied to restriction practice.

All of the subject matter of the present invention is linked by the special technical feature of crystals of 9-((1,3-DIHYDROXYPROPAN- 2-YLOXY) METHYL)-2-AMINO-1HPURIN1-6-(9H)-ONE that are free from alkaline residues. The Examiner has cited no prior art that establishes that this feature of the invention is not novel or not inventive. Accordingly, the standing restriction requirement should be withdrawn in its entirety and all of the present claims 40-46 should be examined together in the present application.

Conclusion

Applicants submit that the claims are free of the prior art and well-supported by the specification. Favorable action on the merits of the application is requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Mark J. Nuell, Ph.D. Reg. No. 36,623 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: April 24, 2008

Respectfully submitted,

By 

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